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PTO/SB/17p (11-04)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FEE
Under 37 CFR 1.17(f), (g) & (h)
TRANSMITTAL
(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/666,592
Filing Date	September 19, 2003
First Named Inventor	Steven W. Wentworth
Art Unit	3652
Examiner Name	N/A
Attorney Docket Number	117798-0295

Enclosed is a petition filed under 37 CFR 1.17(h) that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.
This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

Payment of Fees (small entity amounts are NOT available for the petition fees)

- ☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 50-1588 :
☒ petition fee under 37 CFR 1.17(f), (g) or (h) ☒ any deficiency of fees and credit of any overpayments
Enclose a duplicative copy of this form for fee processing.
- ☐ Check in the amount of \$ _____ is enclosed.
- ☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462

For petitions filed under:

- § 1.53(e) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463

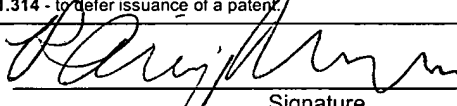
For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.59 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c) - for patent owner requests for extension of time in ex parte reexamination proceedings.
- § 1.956 - for patent owner requests for extension of time in inter partes reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 5.25 - for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464

For petitions filed under:

- § 1.19(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.91 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.138(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to defer issuance of a patent.



Signature
Philip G. Meyers

Typed or printed name

February 19, 2005

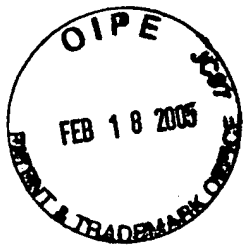
Date
30,478

Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

02/22/2005 1408211 00000003 501500 130.00 00 01-FEB-1464



117798-0295

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Steven W. Wentworth and Paul W. Hau

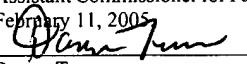
Application Serial No.: 10/666,592

Filing Date: September 29, 2003

For: WINCH WITH TELESCOPING MAST

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Certificate of Mailing under 37 CFR 1.8
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 11, 2005.

Donna Turner

**DECLARATION BY ATTORNEY IN SUPPORT OF PETITION TO MAKE
SPECIAL BECAUSE OF ACTUAL INFRINGEMENT (MPEP § 708.02)**

I, Philip G. Meyers, hereby declare and allege as follows:

(A) That there is an infringing product actually on the market, namely the product referred to in the accompanying declaration of Robert F. Crane;

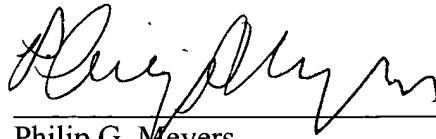
(B) That a rigid comparison of the alleged infringing product referred to in the accompanying declaration of Robert F. Crane with the claims of the application has been made, and in my opinion, at least some of the claims are unquestionably infringed; and

(C) I have made a careful and thorough search of the prior art. One copy of each of the references deemed most closely related to the subject matter encompassed by the claims were submitted with Form 1449 when this application was filed, and a supplemental information disclosure accompanies this petition.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18

of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: February 10, 2005

A handwritten signature in black ink, appearing to read "Philip G. Meyers", written over a horizontal line.

Philip G. Meyers
Registration No. 30,478
Attorney for Applicant

PHILIP G. MEYERS LAW OFFICE
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Flower Mound, Texas 75022
(972) 874-2852
(972) 874-2983 (Fax)



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Steven W. Wentworth and Paul W. Hau

Application Serial No.: 10/666,592

Filing Date: September 29, 2003

For: WINCH WITH TELESCOPING MAST

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Donna Turner
Donna Turner

**DECLARATION IN SUPPORT OF PETITION TO MAKE SPECIAL BECAUSE
OF ACTUAL INFRINGEMENT (MPEP 708.02)**

I, Robert F. Crane, hereby declare as follows:

1. I am an inventor of the foregoing patent application and an employee of Earth Tool Company LLC, the assignee of the application.

2. I recently attended UCT 2005, an underground construction technology show that was held in Houston, Texas from January 25, 2005 to January 27, 2005.

3. In the exhibit hall at UCT 2005, I observed and took photographs of a new winch product being offered by TT Technologies, Inc. ("TT").

4. Exhibits A to E attached to this declaration are printed copies of the digital photographs I took.

5. The product was described to me and to members of the public viewing TT's exhibit as a telescoping winch competitive with the telescoping winch sold by Earth Tool Company LLC and described in the foregoing patent application.

6. The photographs of the attached Exhibits show that the unit has a mobile frame (A) on which a cable spool (B) is mounted. A telescoping mast (C) held by a holder (D) and the end of a pivotable arm (E) can swing from a horizontal storage position to a vertical deployed position substantially as shown in Exhibit B. In Exhibit C, the cable (G) is shown emerging from the end of a downhole unit (H) which includes a sheave (I). Exhibit D shows the rear end of arm (E) and the housing of the winch capstan (F). In the

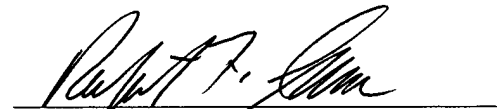
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storage position, the mast (C) is securable to a flange (J) shown in Exhibit E. The control panel (K) includes a switch labelled for raising and lowering the mast. From my observations, I believe that the TT winch shown in my photographs is an infringement of the claims pending in ETC's foregoing patent application.

7. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that wilful false statements and the like are punishable by fine or imprisonment, or both under 18 U.S.C. §1001 and that such wilful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Respectfully submitted,


Robert F. Crane

Date: 1-31-05